

Patricia W. Christensen (0645)
Timothy B. Smith (8271)
PARR WADDOUPS BROWN GEE & LOVELESS
185 South State Street, Suite 1300
Salt Lake City, Utah 84111-1537
Telephone: (801) 532-7840
Facsimile: (801) 532-7750

Attorneys for Defendant and Counterclaimant
Westcomb Outerwear Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

<p>ARC'TERYX EQUIPMENT INC., a British Columbia corporation,</p> <p style="text-align: center;">Plaintiff/Counterclaim Defendant,</p> <p style="text-align: center;">vs.</p> <p>WESTCOMB OUTERWEAR, INC. a British Columbia corporation,</p> <p style="text-align: center;">Defendant/Counterclaimant.</p>	<p style="text-align: center;">DEFENDANT WESTCOMB OUTERWEAR, INC.'S MOTION FOR SUMMARY JUDGMENT</p> <p style="text-align: center;">Case No. 2:07-cv-00059TS</p> <p style="text-align: center;">The Honorable Ted Stewart</p>
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Pursuant to Rule 56 of the *Federal Rules of Civil Procedure*, defendant Westcomb Outerwear, Inc. ("Westcomb") respectfully moves this Court for an order entering judgment in favor of Westcomb as a matter of law.

As grounds for this motion, Westcomb states that its products do not infringe U.S. Design Patent No. 513,715 ("715 Patent"). If the claim of the 715 Patent is properly construed, it is apparent that Westcomb's accused zipper design is not deceptively similar to the 715 Patent nor does it incorporate any of the claimed points of novelty asserted by plaintiff Arc'Teryx Equipment, Inc. Moreover, if the claim of the 715 Patent were to be construed broadly enough to encompass

Westcomb's accused zipper design, the 715 Patent would by necessity also encompass prior art rendering the 715 Patent invalid and unenforceable. A memorandum of points and legal authorities supporting the instant motion has been submitted concurrently herewith.

DATED this 21st of July 2008.

PARR WADDOUPS BROWN GEE &
LOVELESS

By: \s\Timothy B. Smith
Patricia W. Christensen
Timothy B. Smith
Attorneys for Defendant and
Counterclaimant Westcomb Outerwear
Inc.